IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.4197 OF 2005

Mr.Ratnashamy Elango ..Applicant

Vs.

Mr.Madhavdas Nariaindas Mulchandani and Anr. ..Respondents

...

Mr. M.B.Shirsat Advocate for Applicant
Mr. D.P.Adsule, A.P.P. for the State

...

CORAM: SMT.V.K.TAHILRAMANI,J.

DATE : JULY 5,2005

P.C.

1. Heard the learned advocate for the applicant and the learned A.P.P. for the State.

2. The applicant is seeking quashing of complaint i.e. Complaint No. 634/SS/2004 pending before the learned Addl.Metropolitan Magistrate, 28th Court at Esplanade, Mumbai. In the said case, the process has been issued against the applicants under Section 138 r.w. 141 of Negotiable Instruments

Act. The learned advocate for the applicant submitted that the learned Magistrate committed an error in issuing process and the said process deserves to be set aside. If the process issued against the applicant is set aside, the proceedings in respect of the applicant, would come to an end.

3. For the reasons recorded in my order dated 13th June, 2005 in W.P.No. 213 of 2005 and dated 21st June, 2005 in Cri.Application No.550 of 2005, in my view, it is clear that the applicant has an efficacious remedy of preferring revision against the order of Magistrate issuing process. Hence, in my view, it would be appropriate that the applicant prefers a revision before the concerned Sessions Court against the order of the Magistrate issuing process.

4. Liberty is granted to the applicant to prefer the necessary revision before the concerned Sessions Court. The learned advocate for the applicant makes a statement that the necessary revision will be filed within a period of three weeks from today. In view of the said statement,

the trial Court shall not proceed with the trial for a period of three weeks from today.

5. On the necessary revision being preferred by the applicant before the concerned Sessions Court, the concerned Sessions Court shall dispose of the matter on merits after hearing the necessary parties.

6. Criminal Application is disposed of.

7. Authenticated copy be issued to the parties.

[V.K.TAHILRAMANI,J.]